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3. Adverse Possession (§ 66 (2)*)—What Constitutes—Title.—Where a division fence gave defendants and their grantor land belonging to the adjacent proprietor, but defendants and their grantor intended to claim only to the true line, their possession of land belonging to the adjacent proprietor was not adverse, and could not ripen into title.

[Ed. Note.—For other cases, see Adverse Possession, Cent. Dig. §§ 378-383; Dec. Dig. § 66 (2).* 1 Va.-W. Va. Enc. Dig. 205.]

Error to Circuit Court, Russell County.

Ejectment by D. C. Stuart and others against Emily J. Meade and others. There was a judgment for defendants, and plaintiffs bring error. Reversed and remanded.

W. W. Bird, of Lebanon, and *Jno. J. Stuart*, of Abingdon, for plaintiffs in error.

H. A. Routh, of Lebanon, for defendants in error.

DICKENSON *v.* SCOTT et ux.

Sept. 11, 1916.

[89 S. E. 869.]

Specific Performance (§ 126 (2)*)—Nature of Relief.—Where rights of contracting parties are settled by the contract, the court in decreeing specific performance thereof must conform to such contract conditions; and to impose different terms or materially depart from the contract to the purchaser's detriment is error.

[Ed. Note.—For other cases, see Specific Performance, Cent. Dig. § 401; Dec. Dig. § 126 (2).* 12 Va.-W. Va. Enc. Dig. 584.]

Appeal from Circuit Court, Washington County.

Suit by H. H. Scott and Wife against B. E. P. Dickenson. Decree for complainants, and defendant appeals. Modified and affirmed.

John W. Neal, of Abingdon, for appellant.

L. P. Summers, of Abingdon, for appellees.

RIZZLE *v.* DAVIS.

Sept. 11, 1916.

[89 S. E. 870.]

Ejectment (§ 111 (4)*)—Verdict—Evidence.—Code 1904, § 2739, provides that plaintiff in ejectment may recover any specific share in the premises, though less than he claimed in the declaration. Section 2746 provides for verdict generally if plaintiff proves right to all the

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

premises, but if he proves right only to a share, the verdict shall specifically name the share. Plaintiff claimed all the land, and through alleged inadvertence proved his right to only undivided two-fifths interest, but the verdict was for him generally. Held, that, section 2746 being mandatory, the verdict was erroneous.

[Ed. Note.—For other cases, see Ejectment, Cent. Dig. § 335; Dec. Dig. § 111 (4).* 4 Va.-W. Va. Enc. Dig. 912.]

2. Appeal and Error (§ 1177 (8)*)—Scope—Remand on Condition.—Where general verdict for plaintiff in ejectment was erroneous, since he proved only two-fifths undivided interest, on remand the verdict will not be allowed to stand as to the two-fifths interest, but the whole case must be resubmitted.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. § 4599; Dec. Dig. § 1177 (8).* 1 Va.-W. Va. Enc. Dig. 632.]

Error to Circuit Court, Russell County.

Action by Martha A. Davis against S. H. Grizzle. Judgment for plaintiff, and defendant brings error. Reversed.

W. W. Bird, of Lebanon, for plaintiff in error.

S. H. & G. C. Sutherland, and *T. L. Sutherland*, and *Finney & Wilson*, all of Lebanon, for defendant in error.

HOPKINS v. GIVENS.

Sept. 11, 1916.

[89 S. E. 871.]

1. Mortgages (§ 331*)—"Trust Deed"—Sale—Validity.—Where a paper was substantially in the form prescribed for a trust deed by Code 1904, § 2441, though not prescribing the terms of sale, it is a "trust deed" giving power of sale, and not a mortgage, and a sale by the trustee fully complying with the requirements of § 2442 as to such sales, was valid.

[Ed. Note.—For other cases, see Mortgages, Cent. Dig. § 1015; Dec. Dig. § 331.* 10 Va.-W. Va. Enc. Dig. 11.

For other definitions, see Words and Phrases, First and Second Series, Trust Deed.]

2. Mortgages (§ 354*)—Trust Deeds—Notice of Sale—Sufficiency.—Where notice of sale was posted in the post office and the grantor was personally notified, and the sale was well attended and several persons participated in the bidding, the notice was sufficient.

[Ed. Note.—For other cases, see Mortgages, Cent. Dig. §§ 1051-1058, 1068, 1069; Dec. Dig. § 354.* 10 Va.-W. Va. Enc. Dig. 89.]

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.